

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Scott Johnson**

Plaintiff,

v.

**Camden Park, LLC**, a Delaware  
Limited Liability Company;  
**Giovanni Rossi**;  
**Linda Maria Rossi**

Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: Americans With Disabilities  
Act; Unruh Civil Rights Act**

Plaintiff Scott Johnson complains of Camden Park, LLC, a Delaware Limited Liability Company; Giovanni Rossi; Linda Maria Rossi; and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. Plaintiff is a level C-5 quadriplegic. He cannot walk and also has significant manual dexterity impairments. He uses a wheelchair for mobility and has a specially equipped van.

1       2. Defendant Camden Park, LLC owned the real property located at or  
2 about 2083 Camden Ave, San Jose, California, between November 2020 and  
3 February 2021.

4       3. Defendant Camden Park, LLC owns the real property located at or  
5 about 2083 Camden Ave, San Jose, California, currently.

6       4. Defendants Giovanni Rossi and Linda Maria Rossi owned Al Castello  
7 Ristorante located at or about 2083 Camden Ave, San Jose, California,  
8 between November 2020 and February 2021.

9       5. Defendant Giovanni Rossi and Linda Maria Rossi owns Al Castello  
10 Ristorante (“Restaurant”) located at or about 2083 Camden Ave, San Jose,  
11 California, currently.

12       6. Plaintiff does not know the true names of Defendants, their business  
13 capacities, their ownership connection to the property and business, or their  
14 relative responsibilities in causing the access violations herein complained of,  
15 and alleges a joint venture and common enterprise by all such Defendants.  
16 Plaintiff is informed and believes that each of the Defendants herein is  
17 responsible in some capacity for the events herein alleged, or is a necessary  
18 party for obtaining appropriate relief. Plaintiff will seek leave to amend when  
19 the true names, capacities, connections, and responsibilities of the Defendants  
20 are ascertained.

21  
22       **JURISDICTION & VENUE:**

23       7. The Court has subject matter jurisdiction over the action pursuant to 28  
24 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
25 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

26       8. Pursuant to supplemental jurisdiction, an attendant and related cause  
27 of action, arising from the same nucleus of operative facts and arising out of  
28 the same transactions, is also brought under California’s Unruh Civil Rights

1 Act, which act expressly incorporates the Americans with Disabilities Act.

2 9. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
3 founded on the fact that the real property which is the subject of this action is  
4 located in this district and that Plaintiff's cause of action arose in this district.

5  
6 **FACTUAL ALLEGATIONS:**

7 10. Plaintiff went to the Restaurant in November 2020 with the intention to  
8 avail himself of its goods or services motivated in part to determine if the  
9 defendants comply with the disability access laws. Not only did Plaintiff  
10 personally encounter the unlawful barriers in November 2020, but he wanted  
11 to return and patronize the business several times but was specifically deterred  
12 due to his actual personal knowledge of the barriers gleaned from his  
13 encounter with them.

14 11. The Restaurant is a facility open to the public, a place of public  
15 accommodation, and a business establishment.

16 12. Unfortunately, on the date of the plaintiff's visit, the defendants failed  
17 to provide wheelchair accessible dining surfaces in conformance with the ADA  
18 Standards as it relates to wheelchair users like the plaintiff.

19 13. The Restaurant provides dining surfaces to its customers but fails to  
20 provide any wheelchair accessible dining surfaces.

21 14. One problem that plaintiff encountered is the lack of sufficient knee or  
22 toe clearance under the outside dining surfaces on the walkway for wheelchair  
23 users.

24 15. Plaintiff believes that there are other features of the dining surfaces that  
25 likely fail to comply with the ADA Standards and seeks to have fully compliant  
26 dining surfaces for wheelchair users.

27 16. On information and belief, the defendants currently fail to provide  
28 wheelchair accessible dining surfaces.

1 17. Additionally, on the date of the plaintiff's visit, the defendants failed to  
2 provide wheelchair accessible paths of travel in conformance with the ADA  
3 Standards as it relates to wheelchair users like the plaintiff.

4 18. The Restaurant provides paths of travel to its customers but fails to  
5 provide wheelchair accessible paths of travel.

6 19. A problem that plaintiff encountered is that the path of travel leading to  
7 the outside dining surfaces at the parking level required plaintiff to navigate a  
8 step for which there was no ramp.

9 20. Plaintiff believes that there are other features of the paths of travel that  
10 likely fail to comply with the ADA Standards and seeks to have fully compliant  
11 paths of travel for wheelchair users.

12 21. On information and belief, the defendants currently fail to provide  
13 wheelchair accessible paths of travel.

14 22. These barriers relate to and impact the plaintiff's disability. Plaintiff  
15 personally encountered these barriers.

16 23. As a wheelchair user, the plaintiff benefits from and is entitled to use  
17 wheelchair accessible facilities. By failing to provide accessible facilities, the  
18 defendants denied the plaintiff full and equal access.

19 24. The failure to provide accessible facilities created difficulty and  
20 discomfort for the Plaintiff.

21 25. Even though the plaintiff did not confront the barrier, the restroom  
22 mirror is too high. Plaintiff seeks to have this barrier removed as it relates to  
23 and impacts his disability.

24 26. The defendants have failed to maintain in working and useable  
25 conditions those features required to provide ready access to persons with  
26 disabilities.

27 27. The barriers identified above are easily removed without much  
28 difficulty or expense. They are the types of barriers identified by the

1 Department of Justice as presumably readily achievable to remove and, in fact,  
2 these barriers are readily achievable to remove. Moreover, there are numerous  
3 alternative accommodations that could be made to provide a greater level of  
4 access if complete removal were not achievable.

5 28. Plaintiff will return to the Restaurant to avail himself of its goods or  
6 services and to determine compliance with the disability access laws once it is  
7 represented to him that the Restaurant and its facilities are accessible. Plaintiff  
8 is currently deterred from doing so because of his knowledge of the existing  
9 barriers and his uncertainty about the existence of yet other barriers on the  
10 site. If the barriers are not removed, the plaintiff will face unlawful and  
11 discriminatory barriers again.

12 29. Given the obvious and blatant nature of the barriers and violations  
13 alleged herein, the plaintiff alleges, on information and belief, that there are  
14 other violations and barriers on the site that relate to his disability. Plaintiff will  
15 amend the complaint, to provide proper notice regarding the scope of this  
16 lawsuit, once he conducts a site inspection. However, please be on notice that  
17 the plaintiff seeks to have all barriers related to his disability remedied. See  
18 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff  
19 encounters one barrier at a site, he can sue to have all barriers that relate to his  
20 disability removed regardless of whether he personally encountered them).

21  
22 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**  
23 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all  
24 Defendants.) (42 U.S.C. section 12101, et seq.)

25 30. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
26 again herein, the allegations contained in all prior paragraphs of this  
27 complaint.

28 31. Under the ADA, it is an act of discrimination to fail to ensure that the

1 privileges, advantages, accommodations, facilities, goods and services of any  
 2 place of public accommodation is offered on a full and equal basis by anyone  
 3 who owns, leases, or operates a place of public accommodation. See 42 U.S.C.  
 4 § 12182(a). Discrimination is defined, inter alia, as follows:

- 5 a. A failure to make reasonable modifications in policies, practices,  
 6 or procedures, when such modifications are necessary to afford  
 7 goods, services, facilities, privileges, advantages, or  
 8 accommodations to individuals with disabilities, unless the  
 9 accommodation would work a fundamental alteration of those  
 10 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 11 b. A failure to remove architectural barriers where such removal is  
 12 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
 13 defined by reference to the ADA Standards.
- 14 c. A failure to make alterations in such a manner that, to the  
 15 maximum extent feasible, the altered portions of the facility are  
 16 readily accessible to and usable by individuals with disabilities,  
 17 including individuals who use wheelchairs or to ensure that, to the  
 18 maximum extent feasible, the path of travel to the altered area and  
 19 the bathrooms, telephones, and drinking fountains serving the  
 20 altered area, are readily accessible to and usable by individuals  
 21 with disabilities. 42 U.S.C. § 12183(a)(2).

22 32. When a business provides facilities such as dining surfaces, it must  
 23 provide accessible dining surfaces.

24 33. Here, accessible dining surfaces have not been provided in  
 25 conformance with the ADA Standards.

26 34. When a business provides paths of travel, it must provide accessible  
 27 paths of travel.

28 35. Here, accessible paths of travel have not been provided in conformance

1 with the ADA Standards.

2 36. When a business provides facilities such as restrooms, it must provide  
3 accessible restrooms.

4 37. Here, accessible restrooms have not been provided in conformance with  
5 the ADA Standards.

6 38. The Safe Harbor provisions of the 2010 Standards are not applicable  
7 here because the conditions challenged in this lawsuit do not comply with the  
8 1991 Standards.

9 39. A public accommodation must maintain in operable working condition  
10 those features of its facilities and equipment that are required to be readily  
11 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

12 40. Here, the failure to ensure that the accessible facilities were available  
13 and ready to be used by the plaintiff is a violation of the law.

14  
15 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
16 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
17 Code § 51-53.)

18 41. Plaintiff repleads and incorporates by reference, as if fully set forth  
19 again herein, the allegations contained in all prior paragraphs of this  
20 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,  
21 that persons with disabilities are entitled to full and equal accommodations,  
22 advantages, facilities, privileges, or services in all business establishment of  
23 every kind whatsoever within the jurisdiction of the State of California. Cal.  
24 Civ. Code §51(b).

25 42. The Unruh Act provides that a violation of the ADA is a violation of the  
26 Unruh Act. Cal. Civ. Code, § 51(f).

27 43. Defendants’ acts and omissions, as herein alleged, have violated the  
28 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff’s

1 rights to full and equal use of the accommodations, advantages, facilities,  
2 privileges, or services offered.

3 44. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
4 discomfort or embarrassment for the plaintiff, the defendants are also each  
5 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-  
6 (c).)

7 45. Although the plaintiff encountered frustration and difficulty by facing  
8 discriminatory barriers, even manifesting itself with minor and fleeting  
9 physical symptoms, the plaintiff does not value this very modest physical  
10 personal injury greater than the amount of the statutory damages.

11  
12 **PRAYER:**

13 Wherefore, Plaintiff prays that this Court award damages and provide  
14 relief as follows:

15 1. For injunctive relief, compelling Defendants to comply with the  
16 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
17 plaintiff is not invoking section 55 of the California Civil Code and is not  
18 seeking injunctive relief under the Disabled Persons Act at all.

19 2. For equitable nominal damages for violation of the ADA. See  
20 *Uzuegbunam v. Preczewski*, --- U.S. ---, 2021 WL 850106 (U.S. Mar. 8, 2021)  
21 and any other equitable relief the Court sees fit to grant.


22 3. Damages under the Unruh Civil Rights Act, which provides for actual  
23 damages and a statutory minimum of \$4,000 for each offense.

24 4. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
25 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.



1 Dated: April 15, 2021

CENTER FOR DISABILITY ACCESS

2  
3 By:   
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5 Amanda Seabock, Esq.  
6 Attorney for plaintiff  
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